

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Fair Isaac Corporation,

Case No. 16-cv-1054 (DTS)

Plaintiff,

v.

**ORDER**

Federal Insurance Company, et al.,

Defendant.

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Based on the filings and proceedings in this matter, IT IS HEREBY ORDERED:

1. Testimony from Russell Schreiber and Lawrence Wachs is admissible at trial. The following should guide the parties in use of those witnesses and others' testimony:

a. Federal may argue that FICO raised positions in bad faith, thus breaching the implied covenant of good faith and fair dealing;

b. Federal may contend FICO's argument that the license agreement included a territorial restriction was made in bad faith;

c. Federal may not reference any court orders in making such an argument, nor may any party make statements indicating the Court has already determined issues as a matter of law;

d. FICO may argue it asserted the territorial restriction in good faith and believes the position was properly taken.

2. For the purposes of opening statements: the parties may discuss the period of negotiation following the notice of breach up until February 26, 2016. The parties are further ordered to submit to the Court all documents from after February 26, 2016 over which the parties disagree about admissibility under Federal Rule of Evidence 408. The parties shall brief this issue, explaining where the line between business negotiation and settlement negotiation should be drawn or explain the purpose for which the document/testimony may be offered without violating Rule 408.

IT IS SO ORDERED.

Dated: February 14, 2023

/s David T. Schultz  
David T. Schultz  
U.S. Magistrate Judge